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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,537	10/25/2003	Douglas Mac Tackett	SB-002-CAN	3658

7590

07/11/2005

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EXAMINER

CARTAGENA, MELVIN A

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,537

Applicant(s)

TACKETT, DOUGLAS MAC

Examiner

Melvin A. Cartagena

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10252003</u>  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Claim Objections*

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 16-20 been renumbered 15-19.

2. Claims 1 and 8 are objected to because of the following informalities:

Claim 1 recites the limitation "said threaded neck" in line 9. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 8 recites the limitation "said threaded neck" in line 11. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 8-11, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,083,672 to Lewandowski.

Lewandowski shows a two piece closure device for container as seen in Figs. 1-4 having a container 54 with a surface 52 and proximate the container's neck, a generally flat gate valve

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30 slideably positioned on a channel 13 and having a handle or retaining tabs 44, following the contour of the container in a acute angle as seen in Fig. 5, captive retainers 32 and 42, reversible couplings 19 and 20 with interior and exterior threads 18 and 22 respectively.

5. Claims 1-8 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2,626,089 to E. J. Osfar.

Osfar shows a powder and granular material container with self-closing dispensing gate valve as seen in Figs. 1-5, having a biasing flat valve 15 attached to the neck 11 of a container 6.

6. Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,792,803 to Kessler.

Kessler shows a self-reclosing cap valve as seen in Figs. 1-4, a self closing flat valve 10 with biasing arms 12 mounted on the neck 2 of a container.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,083,672 to Lewandowski in view of US 2,626,089 to E. J. Osfar.

Lewandowski shows all claimed limitations as discussed above except for a biasing mean for the flat valve. Osfar shows a powder and granular material container with self-closing dispensing gate valve as seen in Figs. 1-5, having a biasing flat valve 15 attached to the neck 11 of a container 6. It would have been obvious to a person with ordinary skill in the art at the time

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the invention was made to modify the device of Lewandowski to include a biasing member to maintained the valve closed as taught by Osfar to eliminate the need for the operator to manually closed the valve after dispensing form the container.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaanehe shows a dry product dispenser. Chrisman shows a powder dispenser. Fannon shows a powder jack. Schaab shows a utensil. Lindgren shows a dredging can. Phillips shows a drain cock. Bond shows a finger actuated gate valve dispenser. Claus shows a slide valve. Markos shows a dispenser container for pourable contents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on M-F (7:30AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAC 6/30/05  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700